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Typed or Printed Name	TAMARA LIVENGOOD	
Signature	Date 4/4/02	
PETITION Under 37 CFR 1.53(e)		
Address to: Commissioner for Patents Washington, D.C. 20231	Attorney Docket	LIFE-029
07/23/2002 AKELLEY 00000011 500815 0002489A 2002 01 FC:105 130.00 CH	First Named Inventor	Kermani
	Application Number	09/974,597
	Filing Date	October 10, 2001
	Group Art Unit	N/A
	Confirmation No.	7123
	Examiner Name	N/A
Title: DETERMINATION OF SAMPLE VOLUME ADEQUACY IN BIOSENSOR DEVICES		

Sir:

This Petition Under 37 CFR 1.53(e) is in response to the following: (1) a Notice of Incomplete Nonprovisional Application mailed on November 9, 2001 for failure to provide drawings in the above-referenced application and (2) a Request for Substitute Papers mailed on March 19, 2002 stating that the papers (which include a Transmittal Cover Page, a Copy of Notice of Incomplete Nonprovisional Application, the Declaration, a notice of Change of Correspondence, 5 sheets of drawings, a Recordation Form Cover Sheet and an Assignment) mailed by Applicant on December 10, 2001 are no longer in a condition to become part of the application due to the U.S. Postal Service sanitization process.

Background Information

On October 10, 2001, Applicant filed the subject application with the U.S.P.T.O. as evidenced by the attached copy of the Notice of Incomplete Nonprovisional Application Filing /Receipt date. Due to an unintentional mistake on behalf of Applicant, the drawings referenced in the application were not mailed with the application. On November 9, 2001, a Notice of Incomplete Nonprovisional Application was mailed to Applicant informing Applicant of the lack of drawings. On December 10, 2001 in response to such Notice, Applicant timely filed such drawings with the U.S.P.T.O. Due to no fault of the Applicant, the drawings were temporarily lost or held by the U.S. Postal Service, and as a result, were not received by the U.S.P.T.O. until January 17, 2002, which date has been designated by the U.S.P.T.O. as the filing date of the application as indicated by a Request for Substitute Papers mailed on March 19, 2002.

Applicant is Entitled to a Filing Date of October 10, 2001

For the reasons provided below, Applicant believes it is entitled to a filing date of October 10, 2001 and hereby requests such filing date be made official.

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Applicant herein asserts that the drawings referenced in the application filed on October 10, 2001 are not necessary to meet the requirements under 35 U.S.C. §111 and §113 and under 37 C.F.R. §1.71 and §1.75. Furthermore, all other requirements, including the payment of fees, were also met by the application as filed on October 10, 2001. As such, the application as filed on October 10, 2001 is considered to be a complete application under such requirements.

Further, §601.1(f) of the M.P.E.P states that "It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. §113." The subject application contains 22 claims directed to a method.

Accordingly, Applicant requests that it be granted a filing date of October 10, 2001, which date is evidenced by copy of the Notice of Incomplete Nonprovisional Application Filing /Receipt date.

Upon receipt of an Official Filing Receipt indicating that the application has been granted a filing date of October 10, 2001, Applicant shall submit a Preliminary Amendment redacting all references to the drawings if such is required.

Submission of Substitute Papers

In response to the Request for Substitute Papers, enclosed herewith are copies of all documents identified in item (2) above as they were filed on December 10, 2001.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. § 1.17(i) which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-0815.

Respectfully submitted,
BOZICEVIC, FIELD & FRANCIS LLP

Date: 4/3/02

By: Carol M. LaSalle
Carol M. LaSalle
Registration No. 39,740

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Name (Print/Type)	Donna Macedo	Signature	<i>Donna Macedo</i>		Date	12-10-2001	
TRANSMITTAL			Application Number	09/974,597			
Small Entity			Confirmation Number	7123			
Large Entity			Filing Date	October 10, 2001			
			First Named Inventor	Mahyar Z. Kermani			
			Examiner	Unassigned			
			Group Art	N/A			
			Attorney Docket No.	LIFE029			
ENCLOSED:		Claims	No. of claims as filed or after amendment	Most claims previously paid for	# Extra Claims	Rate	Totals
<input type="checkbox"/> Amendment Under Rule		Total				\$	-
<input type="checkbox"/> 37 CFR §		Independent				\$	-
<input type="checkbox"/> Pages		Multiple					
		Total Extra Claim Fees				\$	-
<input type="checkbox"/> Applicants Petition for an Extension of time from		to	A month extension was previously filed and paid for thereby reducing the basic fee				
<input checked="" type="checkbox"/> Response to Notice of Incomplete Nonprovisional appl. (with copy of formalities letter)							
<input type="checkbox"/> Filing Fee		Fee					
<input checked="" type="checkbox"/> Executed Declaration		Pages	3	Surcharge Fee			
<input checked="" type="checkbox"/> Other		Fee					
		Fee					
		Fee					
		Fee					
		Subtotal \$ -					
<input type="checkbox"/> Information Disclosure Statement							
<input type="checkbox"/> PTO Form 1449		Pages					
<input type="checkbox"/> Copies of Cited References							
<input type="checkbox"/> Other							
		Fee					
		Subtotal \$ -					
<input type="checkbox"/> Response to Notice to Comply (with copy of Notice to Comply)							
<input type="checkbox"/> Sequence Listing Certification							
<input type="checkbox"/> Paper Copy of Sequence Listing		Pages					
<input type="checkbox"/> Diskette in computer-readable format							
<input type="checkbox"/> Other							
		Fee					

*12/10/01
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<input type="checkbox"/> Terminal Disclaimer	Fee		
<input type="checkbox"/> Appeal to Board of Appeals and Appeal Communication to Group			
<input type="checkbox"/> Notice of Appeal	Pages	Fee	_____
<input type="checkbox"/> Appeal Brief in Triplicate	Pages	Fee	_____
<input type="checkbox"/> Reply Brief	Pages	Fee	\$ _____
			Subtotal \$ _____
<input type="checkbox"/> Other Enclosures and/or Fees	Fee _____		
<input type="checkbox"/> Change of Correspondence Address			
<input checked="" type="checkbox"/> Return Receipt Postcard	TOTAL FEES \$ _____		
<p>The Commissioner is authorized to charge any fees which may be required, or credit any overpayment to Deposit Account 50-0815. If additional fees are required, including extensions of time, please consider this a petition therefore.</p>			
SIGNATURE OF APPLICANT, ATTORNEY OR AGENT REQUIRED			
Name (Print/Type)	Carol M. LaSalle		Registration No. 39,740
Signature	<i>Carol M. LaSalle</i>		Date 12-10-2001
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